

Tax Deferral Request

West Jasper Pentecostal Living Waters Assembly of God Church

Recommendation

That Executive Committee recommend to City Council:

That the West Jasper Pentecostal Living Waters Assembly of God Church request for tax deferral (account 3879483) under section 347(1) of the *Municipal Government Act*, be denied.

Executive Summary

West Jasper Pentecostal Living Waters Assembly of God Church owes a significant outstanding tax balance due to unpaid taxes from 2015, 2016 and 2017. The organization would typically be exempt from tax, but cannot receive an exemption until it is in legal operation. Development Services has advised that building permits are outstanding and that the property cannot be used until occupancy is granted. The organization is requesting special Council consideration in the interim.

Report

West Jasper Pentecostal Living Waters Assembly of God Church (Living Waters) purchased an industrial warehouse on January 30, 2015 with the intention to transition the facility into a church. Under provincial legislation, a religious organization is exempt from the date of operation. The Assessment and Taxation Branch deems this date to be the point at which all necessary development and building permits are in place and the property is in use for an exemptable purpose. Living Waters did not contact the City of Edmonton to obtain the proper building permits for operation. This resulted in the property remaining taxable.

When ownership transferred, the previous property owner left the property with a tax credit balance of \$3,889.06. On May 22, 2015, property taxes were applied. City records confirm a tax notice was sent to Living Waters at their indicated mailing address. These taxes were not paid and penalties were applied. On August 7, 2015 a reminder notice was sent indicating the outstanding balance. That month, no payments were made and further penalties were applied on September 1, 2015. City records indicate two online tax search requests in September to determine the property's outstanding tax balance. At that time, however, no payments were made. Further penalties were therefore applied on November 1, 2015.

The 2016 year followed a similar pattern with notices being sent, no payments received and penalties applied. No communication from Living Waters took place in 2016, but City records note a web tax certificate being pulled on December 22, 2016 by a Royal Bank of Canada representative.

On February 7, 2017, a warning letter was sent to Living Waters indicating that further non-payment of taxes would result in a caveat being placed on the property. On March 3, 2017, a representative of Living Waters approached the City through a front-counter inquiry. The representative inquired into the Church's exemption status and how to go about becoming exempt. A tax exemption application form was provided. The representative also expressed an assumption that once the property was exempt, the outstanding tax amount (at that time close to \$118,000, including education tax) would be cancelled. It was explained that an exemption would only be applicable on a go-forward basis and the representative was introduced to a tax collection agent to make arrangements to avoid the caveat through a payment plan.

On March 9, 2017, the representative for Living Waters requested forgiveness on previous tax years. In follow-up phone calls and e-mails it was made clear that the organization would first need to pull appropriate building permits and become legally operational. Once legally operating, the organization could be exempted on a go-forward basis and previous taxes could be considered under Council policy C-543. The organization was also strongly encouraged to pay its outstanding taxes up front in order to avoid further penalties or, at the very least, to pay its outstanding education tax amounts.

No payments were made in March and a caveat was applied April 20, 2017. Taxes were applied in May of 2017. That tax amount was not paid and penalties continued to accrue.

On June 16, 2017 a building permit application was made with Development Services

On July 13, 2017, a letter was sent confirming that a caveat had been placed on the property. On July 25, 2017, Development Services issued a building permit allowing interior renovations to commence.

On July 31, 2017, Living Waters again made contact inquiring into their exemption status. The organization also submitted a C-543 request form. Further e-mail and phone conversations took place over August reminding them of the need to complete all necessary building permits before exemptions could take place. At this time it was again underlined that education taxes should be paid in full as soon as possible.

The current year marks the third year the organization is in tax arrears. Assessment and Taxation has inquired with Development Services regarding the status of building permits and has received feedback that as of February 22, 2018, HVAC inspections are still outstanding and the organization has not booked an inspection. Following normal tax collection proceedings, the property should be brought forward for tax sale this year. The organization has, however, asked for special consideration and deferral until all necessary permits are in place and it can proceed to Council for tax cancellation under policy C-543. As a result of this request, tax sale has been delayed until 2019 pending Council's decision.

Administration has recommended the denial of this request on the grounds that it does not conform with any existing City Council policy.

Financial Implications

The organization currently owes \$199,313.12 in property tax arrears. Of that amount, \$39,893.96 specifically relates to education tax, associated penalties and caveat charges. A deferral would result in the full amount still being on City books, but not accumulating penalties. The organization is expected to come forward to Council in 2019 with a cancellation request under C-543. Council's past decisions suggest the education tax amount should not be forgiven as it is related to provincial levies.

Legal Implications

Section 347 of the *Municipal Government Act*, RSA 2000 c M-26, allows municipal councils to cancel or defer taxes if they consider it equitable to do so. Pursuant to the *Municipal Government Act* and case-law, property is not considered to be exempt until it is actually being used for an exempt purpose. Properties under construction are not considered to be used for an exempt purpose until complete.

Policy

This matter is being addressed outside of existing Council policy.

In 2009, Council developed City Policy C543 to equitably treat all exemptible entities that paid taxes prior to qualifying for a tax exemption under provincial legislation. City Policy C543 provides for retroactive municipal tax refunds to properties or portions thereof that subsequently fall under a legislated exemption, but only considers the property during its construction phase for the current year up to a maximum not exceeding the two previous years.

The reasoning at the time was to ensure that the property was completed and used for its intended purposes before providing tax cancellation or refund relief. If Council forgives taxes in advance, there is a possibility that the property is never used (or

partially used) for its intended purposes and, in those instances, there would be no way to recover the lost taxes. Deferring taxes in 2018 maintains responsibility for the taxes with the organization, but ends ongoing tax penalties. Tax levies for 2018 would also still be applied, but no penalties will accrue.

Public Engagement

Living Waters has been engaged throughout the process, but no further public engagement has taken place as it is a private property matter.

Corporate Outcomes and Performance Management

Corporate Outcome(s): The City of Edmonton has a resilient financial position			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Ensure transparent and reasonable tax policy.	5-year total of Council- approved tax cancellations and refunds	Under City Policy C543: \$535,586.19 (2013-2017) Ad-hoc requests from non-profit organizations: \$301,314.21 (2013-2017)	N/A
	5-year average value of Council- approved tax cancellations and refunds	Private property owners: \$0.00 (2013-2017) Under City Policy C543: \$107,117.24 (2013-2017) Ad-hoc requests from non-profit organizations: \$60,262.84 (2013-2017) Private property owners: \$0.00 (2013-2017)	
Ensure transparent and reasonable tax policy.	5-year total of Council- approved tax deferrals	Ad-hoc requests from non-profit organizations: \$638,293.58 (2013-2017) Private property owners: \$0.00 (2013-2017)	N/A
	5-year average value of Council- approved tax deferrals	Ad-hoc requests from non-profit organizations: \$127,658.72 (2013-2017)	

		Private property owners: \$0.00 (2013-2017)	
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Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score	Current Mitigations	Potential Future Mitigations
Commercial	Tax refunds will shift the tax burden onto remaining taxpayers	5	1	5	Council could choose not to approve the request	A refund will be absorbed by the remaining tax base, but will put pressure on tax increases.
Legal / Regulatory	The City runs the risk of additional groups requesting similar consideration	3	1	3	This risk is mitigated by the existence of Council policy.	Council ultimately has the authority to approve or deny subsequent requests.

Attachments

1. Living Waters Assembly of God Request Letter

Others Reviewing this Report

- L. McCarthy, Deputy City Manager, Urban Form and Corporate Strategic Development